

## **REMARKS**

The undersigned attorney thanks the Examiner for the courtesies extended during the telephonic interview on May 14, 2004 where the filing of this RCE was discussed together with the Applicant's intent to submit evidence to support a conception date and its continued diligence in reducing the invention to practice.

Claims 1-19 are pending in the application. Claims 1,4,13,15 and 18 stand rejected. The remaining claims are objected to as being dependent on a rejected base claim.

### **Claims Rejected Under 35 USC 102**

Claims 1, 13 and 18 are rejected under 35 USC 102(e) as being anticipated by Hawkins et al (6,361,684).

The Applicant respectfully draws the Examiner's attention to the prior filed Declaration Under 37 CFR 1.131 of Mr. Larry J. Tipton, submitted with Applicant's Oct. 31, 2003 Amendment, and the Declaration Under 37 CFR 1.131 of Mr. David E. Winn, submitted with Applicant's Nov. 20, 2003 Supplemental Amendment. (Neither inventor remains an employee of the Applicant Federal-Mogul, and therefore obtaining cooperation from these individuals has induced unavoidable delays throughout the pre-filing and post-filing processes.)

These Declarations from Messrs. Winn and Tipton confirm a conception date of the invention prior to May 10, 2000, i.e., the effective date of Hawkins '684. The Examiner found these Declarations wanting of evidentiary support for establishing a conception date and diligence from prior to May 10, 2000 until reduction to practice.

In response, the Applicant submits herewith a Declaration from Mr. Richard Harvey, the Technical Director for the Fuel Systems Group of Federal-Mogul Corporation, and the

supervising manager of Messrs. Winn and Tipton during the relevant time of their employment with the Applicant Federal-Mogul.

Mr. Harvey's Declaration will supplement those of the inventors, and provide evidentiary support for both a conception date prior to May 10, 2000 and diligence from prior to May 10, 2000 until constructive reduction to practice on Dec. 27, 2001.

The Applicant respectfully submits that the Declarations from the inventors, combined with the new Declaration from Mr. Harvey, effectively swear behind Hawkins '684, thereby removing Hawkins '684 as prior art. The Applicant respectfully requests the withdrawal of the 35 USC 102(e) rejection of Claims 1, 13 and 18 and submits that these claims are now in condition for allowance.

#### **Claims Rejected Under 35 USC 103**

Claims 4 and 15 are rejected under 35 USC 103 as being unpatentable over Hawkins '684 in view of Pringham (2,881,749).

Claims 7 and 11 are rejected under 35 USC 103 as being unpatentable over Hawkins '684.

In view of the Declarations which remove Hawkins '684 as prior art against the current application, the Applicant requests withdrawal of the 35 USC 103 rejection against Claims 4, 7, 11, and 15. It is respectfully submitted that Claims 4, 7, 11, and 15 are in condition for allowance.

#### **Allowable Subject Matter**

The Applicant notes that the remaining claims are merely objected to and contain allowable subject matter. In view of the arguments above, it is respectfully submitted that these

claims are in condition for allowance.

Reconsideration of this application as amended is respectfully requested.

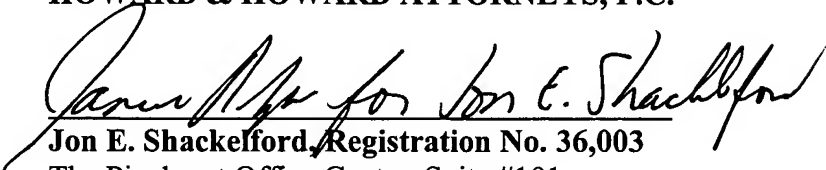
It is believed that this application now is in condition for allowance. Further and favorable action is requested.

The Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 08-2789.

Respectfully submitted,

**HOWARD & HOWARD ATTORNEYS, P.C.**

5/17/04  
Date

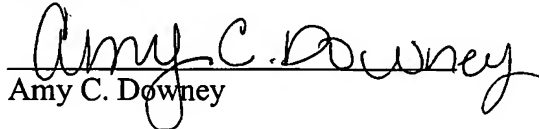
  
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